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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,078	10/23/2003	Mark Abbou	A-03.14	8295

7590

11/29/2005

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EXAMINER

AMERSON, LORI BAKER

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,078

Applicant(s)

ABBOU, MARK

Examiner

L Amerson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

a. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Roman. Roman discloses an apparatus having a basal surface 12, stop surface (top of 10) and support member 8. Regarding the language for assisting a person in the performance of a squat exercise in which the person's feet are juxtaposed with a generally horizontal support surface, with the toes of each foot located forward of the heel of the foot, and the person's knees are flexed to lower and raise the person's trunk relative to the person's feet, each of the feet including toes and a heel", for placement relative to the generally horizontal support surface and establishing a prescribed toe position for each foot of the person's feet such that the toes of each foot are located at a corresponding prescribed toe position relative to the basal surface when the person's feet are juxtaposed with the generally horizontal support surface", "such that a knee corresponding to the foot will confront the stop surface rearward of the stop plane upon locating the toes of the foot at the corresponding toe position", "to place the stop surface at the stop position so that during execution of the squat exercise, movement of the corresponding knee in a forward direction beyond the stop

plane essentially will be precluded by engagement of the corresponding knee with the stop surface” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claims 2-4, including a basal member, platform juxtaposed with the basal surface, a stop member and a stop surface (figure 3). Regarding the language “for receiving the foot, with the toes of the foot located at the corresponding toe position”, “such that the person’s weight will anchor the apparatus in place on the support surface during execution of the squat exercise”, “for seating the corresponding knee during execution of the squat exercise” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 5, protective cushion in figure 8 on the stop member. As to claims 6-7, the support member comprises at least one column “Regarding the language “for extending adjacent a corresponding leg of the person to retain the stop surface at the stop position,” and “accepting the corresponding leg between the two columns upon placement of the foot with the toes of the foot located at the corresponding toe position” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claims 8-9, see the paragraph for claims 2-3 above. As to claims 10-11, see the paragraph for claims 4-5 above.

b. Claims 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Zane. Zane is capable of performing the steps as disclosed in the instant invention.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

c. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roman in view of Rangaswamy. Roman discloses all of the limitations of claims 12-15 as seen above in the paragraphs for claims 1-4, but Roman does not disclose a pair of separate units. Thus Rangaswamy teaches a pair of separate units. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Roman in view of the teaching of Rangaswamy such that an additional unit can be added to assist the other foot of a human.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the similar reference to Normandin cited on Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Lori Amerson", with a stylized flourish at the end.

Lori Amerson